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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re C.G., et al., Persons Coming Under
the Juvenile Court Law.

B210023
(Los Angeles County
Super. Ct. No. CK71602)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.G.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. D. Zeke Zeidler, Judge. Affirmed.

Karin S. Collins, under appointment by the Court of Appeal, for Defendant and Appellant.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Jeanette Cauble, Senior Deputy County Counsel, for Los Angeles County Department of Children and Family Services, Plaintiff and Respondent.

C.G. (Father) appeals from the June 30, 2008 dispositional order requiring him to attend individual counseling. We reject Father's challenge and affirm the order.

FACTS AND PROCEDURAL BACKGROUND

C.M. (Mother) is the mother of C.G. (born 2002), E.G. (born 2003), J.G. (born 2005), and G.M. (born 2007). C.G. is the natural father of C.G., E.G., and J.G. E.M. is the natural father of G.M. Mother and Father married in 2003 and separated in 2006 or 2007. Around the same time, Mother began a relationship with E.M.

In August 2007, E.M. physically assaulted Father until Father was unconscious, resulting in Father's hospitalization.¹

On February 5, 2008, E.M. struck Mother in the face after a dispute. Mother threatened to call the police and E.M. left. He returned the next day, repeatedly struck Mother in the face, smashed her arm against a window, threw her to the ground, and threatened to kill her. When the officers arrived, Mother was covered in blood and gasping for air. She stopped breathing twice as the officers assisted her. The police report resulted in an emergency referral to the Department of Children and Family Services (DCFS).

DCFS interviewed Father on February 6, 2008. He stated that he had "heard some things" about E.M.'s abuse of Mother, but "was unaware of the severity." DCFS advised Mother to relocate to a confidential women's shelter, but she elected to stay at her mother's home, the whereabouts of which were known by E.M. The four children relocated to Father's home.

On February 13, 2008, DCFS filed a petition alleging that the four children were subject to the jurisdiction of the juvenile court under Welfare and Institutions Code section 300, subdivisions (a) (serious harm) and (b) (failure to protect).² The petition

¹ The police report indicates that the victim was named "C.M.," not C.G. However, it is clear from the body of the report that Father was the victim.

² Subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified.

alleged that Mother and E.M. had a history of domestic violence and engaged in violent altercations in the presence of the children. According to the petition, E.M. repeatedly struck Mother and threatened to kill her in front of the children. The petition named Father as a nonoffending party.

At the detention hearing, the juvenile court found that Father was the presumed father of all four children, and released them to his custody. The court granted Mother monitored visitation rights with the children and prohibited any contact between the children and E.M.

On March 3, 2008, DCFS interviewed Father, C.G., and E.G. During the interview, Father stated that on prior occasions, Mother and the two older children had informed him that E.M. regularly abused Mother. Although Father was “concerned,” he believed the problem had resolved itself since Mother had stopped living with E.M. Both children stated during their interviews that E.M. struck Mother on numerous occasions in their presence and that they were afraid of him.

On March 25, 2008, DCFS filed the jurisdiction/disposition report. According to the report, both Mother and Father “appear to minimize the violence that [E.M.] can cause. Mother was brutally battered and was unconscious when the police came. Further in the past [Father] has also been assaulted by [E.M.] to the point of his being unconscious when the police and ambulance came for him.” DCFS observed in the report that Father “was not able to set limits with [E.G.]” and that he permitted E.G. to hit him. DCFS recommended that Mother and Father attend parenting classes and undergo individual counseling.

On May 5, 2008, after an appearance by E.M., the juvenile court vacated its earlier finding that Father was the presumed father of G.M. and named E.M. as G.M.’s presumed father.

On May 28, 2008, DCFS filed an ex parte application pursuant to section 385 requesting the juvenile court to vacate its order placing G.M. in the care of Father. According to the application: (1) Father permitted Mother to have unmonitored visits with G.M., including unsupervised overnight visits outside of Father’s home at a location

known by E.M.; (2) G.M.'s babysitter released G.M. to Mother and E.M. on at least one occasion; and (3) Father's live-in girlfriend was hitting E.G. with her hands and/or a belt. At the hearing on the ex parte application, Father denied knowing that Mother was having unsupervised visits with G.M. After an off-the-record discussion with the parties in chambers, the juvenile court detained G.M. and placed her in foster care, permitted the remaining three children to stay with Father, and ordered that visits with Mother take place in neutral territory (i.e., not at the maternal grandmother's house) with a DCFS approved monitor.

On June 30, 2008, at the jurisdictional and dispositional hearing, Mother and Father each waived the right to testify. E.M. did not appear. With no objection by the parties, the juvenile court received the following documents into evidence: (1) the March 25, 2008 jurisdiction/disposition report with accompanying attachments; (2) court officer informations dated March 25, April 23, May 7, May 29, and June 30, 2008; (3) photographs and birth certificates of the children; and (4) the ex-parte application pursuant to section 385.

The juvenile court sustained the section 300 petition as pled and found by clear and convincing evidence that "[s]ubstantial danger exists to the physical health" of the children and that they were "suffering severe emotional damage." The court removed the children from Mother's custody and declared them dependents of the court. The court placed C.G., E.G., and J.G. in the care of Father and placed G.M. in foster care. As to reunification services, the court ordered Mother to attend a 52-week domestic violence group support program and to obtain individual counseling to address case issues. Over objection by Father's counsel, the juvenile court ordered Father to obtain "individual counseling to address child protection and the case history." The court stated that it was basing its decision on "the same evidence considered for adjudication."

Father timely appealed from the court's dispositional order. On appeal, he challenges only the portion of the court's order directing him to obtain individual counseling.

DISCUSSION

“The juvenile court has broad discretion to determine what would best serve and protect the child’s interests and to fashion a dispositional order accordingly. On appeal, this determination cannot be reversed absent a clear abuse of discretion.” (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474.)

Father contends there is insufficient evidence to support the trial court’s order requiring him to undergo individual counseling, citing *In re Jasmin C.* (2003) 106 Cal.App.4th 177 (*Jasmin C.*). In *Jasmin C.*, the father punched two of his daughters in a fit of rage. The mother “intervened, cooled tempers, restrained her husband, and directed that the police be called.” (*Id.* at p. 179.) DCFS filed a dependency petition naming the father as the offender based on this incident alone; there were no additional allegations of abuse. DCFS reported that “the children appear happy with their mother” and were “safe in the home of their mother under the condition that [father] not reside in the home.” (*Id.* at pp. 179-180.) The court found jurisdiction under section 300, placed the children in the home of the mother, and ordered her to attend parenting classes. (*Id.* at p. 180.) The Court of Appeal reversed, holding “nothing in the record supported the order, which apparently was based on a rote assumption that mother could not be an effective single parent without parenting classes, something belied by common sense and experience in 21st-century America.” (*Id.* at p. 182.)

The present case stands in stark contrast to *Jasmin C.* Here, the juvenile court was faced with a father who apparently failed to recognize the danger Mother’s male companion posed to the children. The evidence in the record shows that some time before the February 2008 emergency referral to DCFS, Father learned from both Mother and the children that E.M. was physically abusing Mother. This knowledge, coupled with his own personal encounter with E.M., should have prompted Father to take steps to secure the safety of the children. But when asked why he took no such steps, Father simply responded that he believed the problem had resolved itself when Mother stopped cohabitating with E.M. A reasonable person would have realized that the abuse would likely continue even without cohabitation given Mother’s continued contact with E.M.

Far from resolving itself, the abuse only escalated and led to an episode in which E.M. brutally injured Mother.

Even after the juvenile court placed the children with Father, Father failed to appreciate the severity of E.M.'s violence and the danger he posed to the children. According to G.M.'s babysitter, Father did not inform her that she had to supervise Mother's visits and that E.M. could have no contact with G.M.³ As a result, the babysitter permitted Mother and E.M. to spend time with G.M. and released G.M. into their custody on at least one occasion. Father's failure to instruct the babysitter about the danger posed by E.M. reflects a lack of judgment and appreciation for the level of violence facing his children. Individual counseling would assist Father in recognizing the severity of the abuse suffered by the children and understanding the impact of the abuse on the emotional well-being of the children. In sum, there was ample evidence to support the trial court's order directing Father to attending individual counseling, and we find no abuse of discretion.

DISPOSITION

The judgment is affirmed.
NOT TO BE PUBLISHED.

TUCKER, J.^{*}

We concur:

MALLANO, P. J.

ROTHSCHILD, J.

³ Although the babysitter later recanted her statements, the juvenile court was entitled to believe her original statements and disregard her recantation.

^{*} Judge of the Orange County Superior Court assigned by the Chief Justice pursuant to article, section 6 of the California Constitution.